

Mar 06, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

SARAH ANN BREWSTER,

Defendant.

No. 4:20-CR-06031-SAB-2

ORDER GRANTING
DEFENDANT'S MOTION TO
EXPEDITE AND GRANTING
DEFENDANT'S MOTION TO
MODIFY CONDITIONS OF
RELEASE

ECF Nos. 404, 405

Before the Court are Defendant's Motion to Modify Conditions of Release (ECF No. 404) and related Motion to Expedite (ECF No. 405). Defendant was represented on these Motions by court-appointed attorney Douglas McKinley.

On January 19, 2023, Defendant waived the right to a detention hearing pursuant to Federal Rule of Criminal Procedure 32.1(a)(6), and the Court subsequently granted the United States' Motion for Detention (ECF No. 383). ECF No. 385. However, Defendant later filed a Motion to Reopen Detention (ECF No. 388), and the Court granted her release to inpatient treatment on February 7, 2023. ECF No. 401. Having successfully completed treatment, Defendant has filed a motion for this Court to grant her release to reside at Oxford House Park Hills. ECF No. 404. Neither the United States Attorney's Office, nor United

1 States Probation/Pretrial Services Office have any objection to Defendant's
2 release. *Id.*

3 "[Federal Rule of Criminal Procedure] 32.1(a)(6) governs release pending a
4 hearing on a violation of probation or supervised release." Fed. R. Crim. P. 46(d).
5 Under that Rule, the Court may release or detain a defendant pursuant to 18 U.S.C.
6 § 3143(a), pending further proceedings. Fed. R. Crim. P. 32.1(a)(6). Under that
7 statute, such a defendant shall be detained unless "the judicial officer finds by clear
8 and convincing evidence that the person is not likely to flee or pose a danger to the
9 safety of any other person or the community if released" 18 U.S.C. §
10 3143(a)(1). This burden of clear and convincing evidence lies with the defendant.
11 Fed. R. Crim. P. 32.1(a)(6); *see United States v. Loya*, 23 F.3d 1529, 1530 (9th Cir.
12 1994).

13 This Court has taken into account the nature and circumstances of
14 conviction,¹ the weight of the evidence against the Defendant, as well as
15 Defendant's history and characteristics, including character, physical and mental
16 condition, family ties, employment, financial resources, length of residence in the
17 community, community ties, past conduct and history relating to alcohol and drug

18 ¹ While 18 U.S.C. § 3143(a)(1) directs the Court to consider release conditions under 18
19 U.S.C. § 3142(c), this statute contemplates an offense charged, which is inapposite in the
20 context of supervised release.

1 abuse, and also criminal history, record concerning appearance at court
2 proceedings, whether Defendant was under supervision at the time of the alleged
3 offense, and the nature and seriousness of the danger to the community posed by
4 Defendant's release.

5 Considering Defendant's completion of inpatient treatment and the
6 agreement of both the United States Probation/Pretrial Services Office and the
7 United States Attorney's Office with release, the Court finds that Defendant has
8 established by clear and convincing evidence conditions or a combination of
9 conditions of release that would reasonably assure Defendant will not flee.

10 Furthermore, Defendant has established by clear and convincing evidence
11 conditions or a combination of conditions of release that would mitigate the risk to
12 the safety of other persons or the community that Defendant poses.

13 Accordingly, **IT IS ORDERED:**

14 1. Defendant's Motion to Expedite (ECF No. 405) is **GRANTED**.

15 2. Defendant's Motion to Modify Conditions of Release (ECF No. 404)
16 is **GRANTED**.

17 3. If a party desires this Court to readdress the issue of detention because
18 of material and newly discovered circumstances, that party shall file a maximum
19 four-page motion for reconsideration succinctly stating what circumstances are
20 new, how they are established, and the requested change in conditions of release.

1 The motion shall indicate whether opposing counsel; United States
2 Probation/Pretrial Services; or another party with a substantial interest in the
3 motion object, whether a hearing is desired, and whether a supplemental pretrial
4 services report is requested. If the moving party, after the exercise of due
5 diligence, is unable to determine the position of opposing counsel; United States
6 Probation/Pretrial Services; or another party with a substantial interest in the
7 motion, the moving party may in the alternative document the date; time; and
8 manner of each effort made to determine that party's position. This Court will
9 treat the motion as expedited and submitted without argument, and will set a
10 hearing or issue other orders as may be appropriate.

11 4. If a party desires that another court review this order pursuant to 18
12 U.S.C. § 3145, that party shall promptly file a motion for review before the district
13 judge to whom the case is assigned, as further described in the Detention Order
14 Review Protocol published for the Eastern District of Washington. Both parties
15 shall cooperate to ensure that the motion is promptly determined.

16 5. Defendant shall be released on previously imposed conditions of
17 supervised release pending the revocation hearing as directed by United States
18 Probation/Pretrial Services. Defendant shall further abide by all previous
19 conditions imposed under 18 U.S.C. § 3142(c), pursuant to this Court's authority
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1 to grant pre-revocation hearing release under Federal Rule of Criminal Procedure
2 32.1(a)(6) and 18 U.S.C. § 3143(a)(1).

3 6. Defendant is bound over to Chief Judge Stanley A. Bastian for further
4 proceedings.

5 **IT IS SO ORDERED.**

6 DATED March 6, 2023.



Alexander C. Ekstrom

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE

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